

TOWN OF NEW WINDSOR

PLANNING BOARD

July 13, 2011

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN  
HENRY VAN LEEUWEN  
DANIEL GALLAGHER  
HOWARD BROWN  
HARRY FERGUSON

ALSO PRESENT: DOMINIC CORDISCO, ESQ.  
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.  
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER  
BUILDING INSPECTOR

NICOLE JULIAN  
PLANNING BOARD SECRETARY

AGENDA:

1. Creek View Mobile Home Park
2. TZSS Realty SP
3. New Cingular Wireless Route 9W
4. Ogonowski Minor Sub.
5. Sandcastle Homes SP
6. Masons Ridge II LLC
7. Masons Ridge II Workforce Housing SP

**REGULAR MEETING:**

MR. ARGENIO: I'd like to welcome everybody to the July 13 regular meeting of the Town of New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

MR. PETRO: I would make one very serious observation

before I leave. The flag always belongs in the right-hand side of the room when it's being entered and that's really serious. I don't know who set that up but--

MR. ARGENIO: I think that predates me.

MR. VAN LEEUWEN: Me too, I'm old.

MR. ARGENIO: Would you see to that please, do a little research first?

MS. JULIAN: Okay.

MR. PETRO: You don't need to research it.

ANNUAL MOBILE HOME PARK REVIEW:

CREEK VIEW MOBILE HOME PARK

MR. ARGENIO: First item is our only mobile home park review, Creek View Mobile Home Park. Somebody here to represent this? Sir, can I have your name please?

MR. GLYNN: Arthur Glynn, G-L-Y-N-N.

MR. ARGENIO: Jennifer, somebody from your office been out to that site?

MS. GALLAGHER: Yes.

MR. ARGENIO: What say you?

MS. GALLAGHER: Everything is in order.

MR. ARGENIO: That's fantastic.

MR. VAN LEEUWEN: You've got them all straightened away.

MR. GLYNN: On our part we had gotten a new site plan put together which during the economic kind of downturn we kind of stopped doing. We're right now working with another investor to try and finish up the park. We were anxious to get new sites together and get it done and simultaneously we have been working to do a lot line revision, it's a weird setup up there where the commercial building is and mobile home parks.

MR. ARGENIO: One on Walsh's Road?

MR. GLYNN: Yes, trying to separate the mobile home park, we're in the middle of that.

MR. ARGENIO: The important thing for what we're here tonight the fact that the units that you do have are in good shape, they are in a level of fitness where they are safe, not a detriment to the town. Do you have a check this evening made out to the benefit of the Town of New Windsor for \$250?

MR. GLYNN: I'll make it out.

MR. ARGENIO: Motion we offer one year extension.

MR. VAN LEEUWEN: So moved.

July 13, 2011

4

MR. FERGUSON: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

ZBA REFERRALS:

TZSS REALTY SITE PLAN (11-11)

MR. ARGENIO: On to our regular items tonight, first item is ZBA referral, TZSS Realty site plan on New York State Route 300. Is there anybody here to represent this?

MR. DRABICK: Yes.

MR. ARGENIO: This application proposes conversion of the former Mobil gas station to used car prep and sales establishment and the plan was reviewed on a concept basis only. Guys, this is the Mobil Station next to Moroney's, the lot is not big enough for him to do what he wants to do so he's going to need a ZBA referral. So if you would give us just a brief overview of what you have and what you'd like to do. We're here to make that referral to the zoning board tonight.

MR. DRABICK: This is a, you did mention this is the former Mobile Gas Station.

MR. VAN LEEUWEN: I know where it is.

MR. DRABICK: Basically, what we're doing we're not making any physical changes to the site itself, other than opening up the building and using the garage side as a prep area for used cars and the office side for the sales. We can accommodate what's required for parking and I have allotted enough room for display for 24 vehicles and we have a note on the plan that we'll limit it to that being the maximum number of cars that would be displayed at any one time.

MR. ARGENIO: Primary business is used auto sales?

MR. DRABICK: Yes.

MR. ARGENIO: Are you going to make any repairs there?

MR. DRABICK: No, the garage on site is going to be strictly used for just prep and detail of the cars.

MR. ARGENIO: Are you going to have an inspection station there?

MR. DRABICK: No, and there will be no outside services, won't be open for the public to come in.

MR. ARGENIO: Just want to point out to the members if you look up at the easel, this here is an opening, a current curb cut and it's my understanding that the applicant is not proposing any modification to that because obviously, I mean, if I owned the property, if you have the curb cut, you don't want to lose it but what he's going to do is block it off, I assume with bumpers.

MR. DRABICK: What exists there are concrete filled bollards with the chain across it, they're spaced about every four or five feet apart, pretty substantial, we're just going to leave it as is.

MR. VAN LEEUWEN: Going to use the other entrance to the right?

MR. DRABICK: This entrance to the right will be the only entrance and exit to the site.

MR. GALLAGHER: Are there any limitations as far as no left out or right out only?

MR. DRABICK: No, there isn't and surprisingly enough I was out working on the site, this does fill up but briefly, traffic seems to move well enough where it won't be an issue using this entrance to get in and out.

MR. VAN LEEUWEN: That's better than the other entrance.

MR. ARGENIO: It's further away from the intersection and obviously he's got to have access to the site, we can't deny access to the site.

MR. VAN LEEUWEN: What about the tanks, are they going to be removed?

MR. DRABICK: The tanks have been removed, everything that has been necessary to remediate that site as a former gas station has been accomplished.

MR. ARGENIO: Did you buy or renting it?

MR. DRABICK: He's going to lease it, the applicant, the applicant is Bob Babiglio (phonetic), owner, Jerry Spano's operating manager of TZSS Management Company.

MR. ARGENIO: Mark's comment are fairly limited as because this application's got to go to ZBA and based on their success or not there it will be subject to further review of the planning board. We'll talk about pavement and things of that nature. Does anybody else have any questions that they think they feel compelled to ask at this point in time? Bearing in mind that we're going to see this again if they're successful at the ZBA. If anybody sees fit, I'll accept a motion we declare this application incomplete at this time.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: You have been referred to the Zoning Board of Appeals, good luck to you. And if you're successful, contact Nicole, she'll put you on the agenda and we'll see you again.

MR. DRABICK: Thank you very much.

MR. ARGENIO: To be continued.

PUBLIC HEARINGS:

NEW CINGULAR WIRELESS (AT&T) (11-09) SP & SPECIAL  
PERMIT

MR. ARGENIO: Next item on tonight's agenda public hearing New Cingular Wireless site plan at the Petro Plumbing, no relation to--

MR. VAN LEEUWEN: Yeah, it's his deceased uncle, yes.

MR. ARGENIO: Application proposes construction of a new hundred foot monopole cellular tower within a fenced area on the property. The plan was reviewed, previously reviewed at the 8 June planning board meeting and this application is here tonight before this board for a public hearing. So Mr. Morando, would you tell us briefly the changes if any you have made since we have seen this application last time? I think we had a pretty thorough discussion about it. After the board discusses it, if we have any questions we'll ask you then we'll open it to the public for their commentary and then come back to the board. So tell us some of the highlights here. And for the benefit of the board, if you have made any changes since you have been to us.

MR. MORANDO: Good evening, again, my name Anthony Morando from the law firm of Cuddy & Feder representing AT&T. Just so you are aware, we have with us Denise Panzer from Tectonic Engineering who's prepared the visual analysis, we have Tammy Nosec from Tectonic Engineering who is the engineer who designed the drawings and Evon Joseph who's an RF consultant for AT&T. This site was selected as a result of a comprehensive alternative site analysis to find a location with the goal being to help eliminate a significant gap in reliable wireless service in this target area of the Town along Route 9W, Route 94. Our proposal specifically involves the installation of a hundred foot monopole, as the chairman indicated, as well as a fenced compound on this active commercial property that most people know the Petro property is located. First, let me discuss the property itself and the site. The Petro property is on the western side of Route 9W immediately to the north of Anthony's Pier 9. The proposed pole will be tucked in the rear of the property. This site and specific placement provides a natural screening, in other words, there's landscape buffer due to the topography and the existing



vegetation that the rear of the site provides. Also at this location it's interesting to point out that it won't interfere with the Hudson River viewshed from the neighboring parcel which is the Coloni Funeral Home. In fact, the facility will be set back a significant, significant distance from the Hudson River shoreline. Another particularly interesting point is that it's set again at the rear of the property so it's more than 420 feet I believe from Route 9W, so trying to keep it away, try to tuck it in the back as far as possible. With regard to the actual facility, I will explain that the tower's designed to accommodate AT&T's facility as well as additional three carriers below it. The compound will be enclosed by six foot security gate per the code with privacy slats inserted in there. The compound itself will contain the equipment that's associated with the antennas and other wireless facility equipment that are located on the property. This will also include for AT&T particularly 12 antennas at approximately 98 feet on top of the hundred foot monopole and equipment shelter within that compound to operate the facility. There will be a GPS antenna located within the compound. In sum, I guess I would say that the proposed facility at this point by locating at the Petro site is located away to provide the necessary wireless coverage that we need in the area but also it does it in the least intrusive manner as possible which we have demonstrated with the board for several months.

MR. ARGENIO: Henry, you had a question?

MR. VAN LEEUWEN: Yes, those poles, the antennas and top of the monopole, how high are those again?

MR. MORANDO: Ninety-eight feet so the top of the pole is 100, the antennas are at 98.

MR. VAN LEEUWEN: They're not above the pole? I thought they were.

MR. MORANDO: No, no.

MR. ARGENIO: Just let me share a little bit, Henry, I don't know if you were at the last meeting when Mr. Morando was here?

MR. VAN LEEUWEN: No, I wasn't.

MR. ARGENIO: But it seemed as though the board was

resolved to the, I don't want to say Christmas tree.

MR. MORANDO: Monopine.

MR. ARGENIO: Deciduous tree appearance, same one we selected for the property back here and I have photographs that I'm going to put in as part of the record when the time comes if you want to see.

MR. VAN LEEUWEN: No, I remember what they look like.

MR. ARGENIO: Members of the board, do you guys have any additional questions before I open it up to the public? Danny?

MR. GALLAGHER: Not at this time.

MR. BROWN: No.

MR. ARGENIO: On the 28th day of, I'm sorry, Henry, did you have anything else?

MR. VAN LEEUWEN: No.

MR. ARGENIO: On the 28th day of June, 2011, Nicole prepared 45 addressed envelopes containing notice of public hearing for this application. She sent them out, that list was acquired from the assessor, Todd Wiley. At this time, the public hearing is open. If you wish to speak for or against this application or if you have a question, please raise your hand, be recognized, come forward, state your name and address for the stenographer and speak in a clear, intelligible voice. And I'd like to as best we can to try not to rehash the same issue time and time again. Yes, sir in the blue shirt please come forward. If you'd be so kind Nicole says there is a sign-in sheet there, if you would just sign in that would save Franny asking how to spell your name or some other such thing. What's your question, sir?

MR. BALL: I just have one concern and that is a health issue. I have read some articles in regards to electromagnetic radiation from these things and it says pretty much anybody that lives within a quarter mile of one may have an issue with cancer concerns. I have also read articles against them so it's like one way or the other. All I'm saying is if there's a kernel of truth to it, why subject my neighborhood to this? That's all I wanted to say.

MR. ARGENIO: I'm going to speak to that in a minute but I'd like the RF person to come up and speak to that first and then I have a comment that I'd like to make. Can you please speak to that, sir? Your name is?

MR. JOSEPH: Sure, my name is Yvan Joseph, that's Y-V-A-N, Joseph, J-O-S-E-P-H and as Mr. Morando mentioned I'm the radio frequency engineer.

MR. VAN LEEUWEN: Can you talk a little louder?

MR. JOSEPH: I'm the radio frequency engineer on behalf of AT&T and Cingular Wireless. In respect to RF emissions emitted from cell towers, the, actually, the FCC regulations, all emissions on towers throughout the United States and they set forth the guidelines and mandates as far as what wireless carriers, not just cell phone carriers, radio carriers, any company that's emitting RF radio waves and according to the FCC and we have done a study, our site will be less than one percent of the FCC emissions standards. So what that means the FCC has a tolerance level that at certain levels they feel that it is deemed possible that you have to warn the public. This particular site after our testing is proven to be less than one percent of that level so that means there are no emissions affects due to our placement of our antennas at that location.

MR. ARGENIO: Thank you.

MR. BALL: Well, I may point out right now without the cell tower there's zero emission. All I'm saying is, you know, if there's any chance at all I just want to make it known that, you know, why do I want to have this in my neighborhood if there's any chance at all?

MR. ARGENIO: What's your name, sir?

MR. BALL: Allan Ball.

MR. ARGENIO: Last name?

MR. BALL: B-A-L-L. I live on Nee Avenue.

MR. ARGENIO: Okay, do you have any other concerns?

MR. BALL: No, that was my main one right there. All I'm saying just no health issue exists now why should I accept this just because somebody wants to put a cell

tower there, you know, where one doesn't exist as it is? That's all.

MR. ARGENIO: Thank you. Does anybody else have a question or comment?

MS. WRIGHT: My name is Mary Ellen Wright, I live at 41 Blooming Grove Turnpike which is directly behind the historic Coloni property. I have some letters from my neighbors who are unable to attend. Would I be allowed to read them into the record? They're short.

MR. ARGENIO: I would, what I would like you to do, I'm sure you've read them, I'd like you to verbalize what's in the letters and you can certainly give us the letters and we'll make them part of the permanent record but if you could express to us what the concerns are, I'd like to have the applicant and the board have the opportunity to address what the concerns are.

MS. WRIGHT: I'll give you my concerns first. I took the time to come up and review the complete plan. I purchased photocopies under the Freedom of Information Law and I'd like to address most of the sections that are in this plan. The first issue is I believe a cell phone tower at this location is going to interfere with my right to the quiet enjoyment of my property. I saw the red balloon, I saw it from my ground floor, I saw it from my back yard and I saw it from upstairs. I recently put an addition which resulted in increased taxes for the Town of New Windsor. My property's unique and the property of my adjacent neighbors are unique in that we have over one acre each of us in a row behind Coloni's. We have views of the Hudson River sometimes seasonal but most of the year we have views.

MR. ARGENIO: I think I know what you're talking about, you have some beautiful--

MS. WRIGHT: We mow our lawns together so we have a beautiful, now we're going to have a cell phone tower. I am frightened that you are not only considering a monopole but would be the artificial Christmas trees like we have behind Mickey Bigg's house but I'm very concerned about the viewshed, I'm concerned about the value of my property. I have had an opportunity to review the statement that FCC, the federal government has granted AT&T a license. Well, they have also granted a license to many other cell phone carriers. This gap in the service, if you read the plan carefully

appears only to apply to AT&T and the customers and yet when I went on the internet to AT&T's website, they indicate that they have good service in this area. So I'm just a little perplexed. There seems to be a discrepancy between what's being advertised on the website. I have a copy for the board to review, I brought a copy with me. Also, since the Town of Cornwall recently approved the tower, I believe approved January, February went up fairly quickly south of Vails Gate, I don't know if that gap in coverage reflects the new transmissions from that tower or if that was prior to that tower being operational? I don't know.

MR. ARGENIO: Is that the tower at Quality Autobody?

MS. WRIGHT: Mickey Bigg, yes, that was also an AT&T Cingular tower. The Cornwall Planning Board has complete minutes online if anyone would like to review, I can get a copy or you have access via the internet to those minutes. So I guess the statement of need is a little bit slanted, it's a bit biased. AT&T is simply seeking to increase its market share. I have cell phone coverage with a competitor. I do not drive while talking but I have been on various areas of Route 9W south of this area, I have never had a problem with coverage with my cell phone carrier. I have looked at maps on the internet of the various cell phone coverage--

MR. ARGENIO: You don't have a coverage problem going up Storm King Mountain?

MS. WRIGHT: Storm King Mountain is not in the Town of New Windsor.

MR. ARGENIO: You said going south on 9W.

MS. WRIGHT: Within this gap in coverage area that the Town of New Windsor has jurisdiction over, I have no problem with my coverage. If someone's concerned about coverage in that area, look toward a competitor who might provide better service. I don't think as a taxpayer in the Town of New Windsor my property value should be devalued, it's a beautiful strip of properties there by serving people of an adjacent town because of a gap in coverage by one of many providers of cell phone service. The applicant, there's no possible towers in the area that we can share? Once again I certainly don't have the access to information

or the resources that the applicant has, we've got 1, 2, 3, 4, 5 probably 6 people here, I don't know how many people it took to put this plan together but I got on the internet and I found 37 antennas in the Town of New Windsor within a four mile radius, the tallest being 404 feet. I also found that New Windsor certainly doesn't discriminate against AT&T and AT&T, there's AT&T towers within the town already as other carriers. Again, I will go back to the view. There's a very nice plan by the viewshed engineer about how this will be barely noticeable because of the heavily wooded area. Well, I own one of them. So if I ever chose to cut down my trees or if my neighbor chose to cut down their trees or in the church property which I came before the board two years ago to prevent commercialization of the property chose to cut down their trees, the visibility, the view plan would be dramatically altered. So once again, we go back to the view. The view plan also has a very interesting phenomenon on how the of the 11 parcels that are viewable those are taxpayer parcels, out of the 12 parcels that are not viewable we have a church, Knox Headquarters, governmental entities and very few tax paying properties that will have no affect for the cell phone tower. So, again, I encourage you to carefully review this proposal in view of how it affects the people of New Windsor and lastly while the 1st Amendment gives people the right to talk about the possible health hazards, I know you can't use that in your decision making process. When the FCC Act of 1996 was drafted, there was a lot of input at that time and in Section 704 which is buried in a book about this big basically says that Federal Law preempts the local zoning boards, the local municipality's ability to prohibit cell phone towers based on health concerns. The FCC's position on the dangers of cell phone tower emissions is that it's extremely unlikely that they pose any dangers to a person's health. Well, I think on September 9 of 2001 we thought that terrorist attacks on our soil would have been extremely unlikely. And last week in Orlando County the prosecutor thought it was extremely unlikely that the jury would return a not guilty verdict of a women accused of murdering her child. Extremely unlikely does not mean none or never. As this gentleman said, why take one when you can have zero. I'd ask again in closing that you carefully evaluate the impact your decision is going to have on the character of the neighborhood, our property values, our right to the quiet use of enjoyment of our property and our view and I urge you to vote no. And that's my

opinion, Mary Ellen Wright. My neighbor, Michael and Beth Bagarozzi who closed on their house two weeks ago at 37, I'm sorry, 45 Blooming Grove Turnpike, took over a year and half to find the ideal property. They moved up from Rockland County. Now they're going to be looking at a 100 foot monopole in their back yard. They live, I live directly behind Coloni's, they live one property between the church and myself, my neighbor Jennifer Mullarkey and her husband, John, Pat Mullarkey's son, they live on the other side, one of the adjacent properties, she's concerned she has four children that play in the woods. Would it be an attractive nuisance? I don't know that. We're concerned about our neighborhood and we ask that you take those concerns into consideration. I'm going to give you these letters for your record. Thank you.

MR. ARGENIO: Ma'am, can I tell you something? That was one of the most well thought out, intelligently put together statements that I think I have heard in a long time.

MR. VAN LEEUWEN: She's a lawyer.

MR. ARGENIO: I don't care if she's an attorney.

MR. ARGENIO: Considerate, well thought out and very respectfully presented.

MS. WRIGHT: I have to add a little disclaimer off the record. One of my neighbor's sons just took a job with one of the firms represented here tonight and I bear him no ill will.

MR. ARGENIO: Thank you, ma'am. That was very considerate and well thought out. There's a lot of other things that we need to take into consideration, not the least of which is the points that you brought up which certainly a lot of them have merit. Anybody else like to make a comment? Yes?

MR. SHEFFIELD: Hi, I'm Martin Sheffield, I live along Blooming Grove Turnpike also, in fact, I'm right behind Coloni's Funeral Home. I have been here 35 years, raised three boys here and my concern is one of health reasons too, especially after recently in the news you hear that holding a cell phone to your ear for a length of time can be damaging. I'm not a scientist, I don't know if there's any connection with that either. I'm not a lawyer either so I don't know if I can do, I'm

sorry I'm following Mary Ellen.

MR. ARGENIO: Please, if you would be so kind please focus on something that these other folks have not focused on because their point was certainly made with all due clarity.

MR. SHEFFIELD: I'm here as the 35 year resident raised here and my point being is that--

MR. VAN LEEUWEN: Mary Ellen was born here.

MR. SHEFFIELD: I went through all the Newburgh schools. Anyway, having lived in that area and besides the health piece, I was in Manhattan last week and we were in a hotel and the person there saw New Windsor on my license and they just told me how riding up through 9W how beautiful it is. And that made me come to this meeting really regarding the cell tower. I do have one question and I know the tree line in the back how far above the tree line, you know, and I'm up on the hill there will the cell tower be?

MR. MORANDO: I have to confirm that with Tammy Nosec but I believe the tree line is approximately at the site is approximately 70 to 75 feet so the tower is 100 feet, obviously there's elevation changes with topo, different intervening vegetation so it's not a flat area clearly there's a ridge line.

MR. ARGENIO: I think depending on where you are you're likely going to see at the very least top of it.

MR. MORANDO: That's really at the location identified in the visual assessment that's generally the visibility of the tower, it would be the top portion.

MR. ARGENIO: Okay, anything else?

MR. SHEFFIELD: No, that's it, thank you. And I know I sound like not in my back yard but that's how I feel.

MR. ARGENIO: Thank you. Anybody else? Yes in the back please come forward ma'am.

MRS. TURNER: My name is Diane Turner and I am immediately affected by this building simply because I live on Lafayette Drive. There are a group of children on my street not only who will be affected by the construction of it--



MR. ARGENIO: Excuse me one second. Where is Lafayette Drive, Anthony?

MS. TURNER: Right directly across the street.

MR. ARGENIO: Adjacent to Toyota of Newburgh.

MR. MORANDO: Behind the Windsor Motel.

MS. TURNER: So we're directly affected not just by the building of this thing itself but of the possible medical consequences and of the destruction of the view. And I just wanted to say that because I am so immediately affected by this that I would like to put my objection forward because I don't see anyone else here from my block, there's only 10 houses on the whole block and since I don't see anyone else here that would be so immediately affected by this project I would like to voice my objection to it.

MR. ARGENIO: Thank you, ma'am. Anybody else? Yes, sir in the white shirt, your name?

MR. WALTER: George Walter. I live at 19 Nee Avenue. My property is directly behind Anthony's Pier 9 abuts the woods that's behind the church and pretty much have a common corner. And my concern as people previously have stated is the viewshed. I'm actually contemplating rebuilding my house and if I know I'm going to have to stare at one of these monopolies I may have to consider otherwise. But I do like the property. If I ever decide to trim any of the trees in the back yard I'm going to be looking directly at that so I don't know if this is going to be situated in the, would it be the southwest corner of that property?

MR. MORANDO: Correct, yes, the southwest corner.

MR. WALTER: Which is very close to my corner.

MR. MORANDO: Excuse me, northwest corner, yes, the northwest corner, I apologize.

MR. WALTER: Which building is Petro's Plumbing?

MR. MORANDO: Right here.

MR. WALTER: So that would be the southwest corner.

MR. ARGENIO: What else do you have, Mr. Walter?

MR. WALTER: Just wanted to express my concern about the viewshed, my property is pretty much catty-corner there, I do own some woods, fortunately some of it is Anthony's Pier 9 but if they ever decide to take down some of their trees, I do the same, it's pretty much going to be wide open there.

MR. ARGENIO: Okay, thank you. Anybody else? In the back in the blue, your name, sir?

MR. PETTI: Anthony Petti, P-E-T-T-I, I live on Lafayette Drive. I'm a little confused. Last time we were here, you guys were taking down the old tower that's in the back of the motel or that has changed?

MR. ARGENIO: What's happened is the tower was going to go on the motel and they were going to take it down and it was the sense of this board that a tower at that location was substantially an impact on the people of the Town of New Windsor because while some people here tonight are expressing concerns about their viewsheds that thing in everybody's face on the east side of 9W would have been a car crash, so to speak so that location is off the table. We declared a positive decision under the SEQRA process, a positive declaration which means that there is a substantial bad impact for everybody in the town by putting it there and we compelled the applicant to seek out other locations. This location is across the street behind Petro Plumbing on the edge of the woods there.

MR. PETTI: That's basically it, just wanted to clarify that, I wasn't sure.

MR. ARGENIO: Sign in, please. Anybody else? Yes, ma'am?

MS. KIERNAN: My name is Margaret Kiernan. I have no new facts or questions, just wanted to go on record as saying that we're residents of New Windsor and also opposed to the building of the tower.

MR. ARGENIO: Thank you, Mrs. Kiernan. Anybody else? Motion?

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we close the public hearing for this application. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I want to speak for a minute. That's a lot of information and as I said, Mrs. Wright and everybody thank you for being respectful and not turning this into a zoo because let me tell you something from where I'm sitting, nobody likes cell towers, nobody, and I don't want to say I speak for the board but I'm going to say the board members don't like cell towers either. We all like our cell phones, I certainly use mine, but nobody likes cell towers. They are unsightly, they are in your face and there's a question about the health risks there. Now I have to tell you that I have read, I don't claim to be an expert, but I have read volumes and volumes and volumes and volumes of literature six inches thick, eight inches thick, 10 inches thick, many, many, many articles and I have read the articles that Mrs. Wright refers to that it's bad for you and that Mr. Sheffield in the blue, what's the other gentleman's name?

MR. BALL: Ball, Allan Ball, B-A-L-L.

MR. ARGENIO: That Mr. Ball refers to. I have read them, I have read an equally probably more articles saying that nobody ever says they are safe but they say they are not going to hurt you, et cetera, et cetera, et cetera. Unfortunately, Mrs. Wright, we need to unlike 911 we need to work off the best information that we have and that's what we try to do and unfortunately, we have, this planning board is in the unenviable position at times of making decisions that people are not happy with. And sometimes we may not even agree with the decision but the reality of it is is that the law is the law and there's a law that governs the erection of cell towers in the United States. That's it. There's cell towers out there, they exist, there's going to be more as we get into 3G and 4G and again, I'm not a technical expert but from

what I understand these new functions on these new phones require greater band width and that's why we're seeing more and more towers to handle the increased band width that's necessary to drive these phones. That is what it is. I'm not going to get into a big lecture about that. In addition to the obvious fact that anyone in this room including Harry Ferguson, including Jennifer Gallagher, including anybody else who lives in this town you have the right to develop your property as long as you follow the law, you have to follow the law, that's what the laws are for. So, there are two things I would like to probe just a little bit with the assistance of counsel and I'm going to need the attention of the applicant for this. As far as the coverage goes, the RF coverage study that was done and this is something that we typically reviewed and made sure that these studies are done correctly and that we're not being buffaloed, bulldozed or snowed over, what about the tower that's at Quality Autobody and how does that affect this tower at all? Has it been taken into consideration? Does anybody know the answer to that? Cause I think that's a pretty pertinent question. Can anybody answer that?

MR. MORANDO: Yvan, feel free to walk around.

MR. ARGENIO: Please, do you know the tower I'm referring to? Vails Gate at Quality Autobody just south of Vails Gate. Is that in Cornwall?

MR. EDSALL: Yes.

MR. ARGENIO: While he's checking and thinking about that I just want to add one other point. And I touched on it a few moments ago. This application was originally slated to be located on the Windsor Motel and as long as I have been on this board, I don't ever remember declaring a positive declaration under the SEQRA process for visual purposes ever, ever once ever but it was felt by the members of the board, Harry and Howard and Mr. Gallagher, Mr. Van Leeuwen and myself that the impact, the viewshed impact was so significant if they were to erect it at the Windsor Motel that everybody in the town would suffer. I think it was you, sir, Mr. Sheffield, who said how beautiful it is driving up 9W, somebody said how beautiful it is. How about having a big, giant, piece of steel sticking up on top of the Windsor Hotel blocking the viewshed of the Hudson River? One of our greatest assets is the view of the Hudson River from different locations in

the town. We took the incredibly unusual step of compelling the applicant to look for other locations and he's done so. Over to you, sir, I'd like an answer to the RF question I asked.

MR. JOSEPH: No, no problem, actually, that site was taken into consideration when we do our comprehensive analysis, we analyzed the existing sites and the future sites that are planned in the area.

MR. ARGENIO: How far in the future did you look?

MR. JOSEPH: Our view plan varies but this site and that site were for the last two years as far as our view plan right now there are no current sites planned within the next year or so but that could change every year, every two years depending on what the demand is in the area. But regarding the view plan that was just conducted that was evaluated and each site has its own geographic area that it serves that particular site due to the terrain and topography does not provide us the adequate amount of service that we're trying to seek in this portion of the town.

MR. ARGENIO: Down near the river on 9W?

MR. JOSEPH: Exactly, and as you mentioned, more and more people are using their phones, not just out in the street or in their cars, but they're using their phones for data services in their homes and they're using the wireless internet services that we provide as well so it's not just regular phone calls that people are making. I mean, everyone, most people have phones and they use it for more than just talking on the phone. In order for us to provide these services, we have to be able to provide a reliable level of service to the customers.

MR. ARGENIO: Thank you. Another important comment that was made, why take one when you can have zero. I'm not going to go out on a limb but I am going to say this, the reality of it is you can't have zero because as I said before, if somebody desires to develop their property with a cell tower, a shed, a home or a commercial building and they do it in accordance with the law, this board is a quasi-administrative board where we can tell them how to do it, put up a shed, put up a bush, put up some screening, divert the water cause you're going to flood the neighbor, things of that nature but what we cannot do by law by statute is

tell you no, you can't because we don't think it's a good idea or the five of us don't want it for whatever reason we don't have that ability, it's not granted to us under the law.

MR. VAN LEEUWEN: Very well said.

MR. ARGENIO: Thank you. What I would like to do is, Dominic, I'd like you to just briefly speak a bit and I know what I want to say but I can't really articulate it cause I'm not an attorney but speak a little bit on the idea for the benefit of everybody out there of why the laws exist, to encourage, I don't want to say encourage, that allow for the development of these cell towers and the encouragement of competition in that venue, AT&T, Verizon, et cetera, just so everybody can have maybe a better, I mean, Miss Wright certainly seems to be very knowledgeable in this arena, maybe you can share a little bit so everybody can have the benefit of what the posture of the federal government is on this thing because they have taken the monitoring of the RF frequencies, that's RF frequencies, et cetera, please, Dominic, can you speak to that?

MR. CORDISCO: I can, I don't think I can be as articulate as Miss Wright to be honest but because she touched on these issues and what you're brushing up against on all these comments is that many people have many different opinions about the health affects of cell towers and that people quite frankly don't want them for either health affects, impacts or visual impacts. In regards to the health affect impacts, as Miss Wright mentioned the Telecommunications Act of '96 there was many different voices, many different ways that communities were approaching and permitting or denying or delaying the construction of cell towers and so you had all these different opinions, you had the government speak--

MR. ARGENIO: Talk about a bit the way the pendulum has swung the other way, shot clock, et cetera.

MR. CORDISCO: That's correct. The federal government not only enacted the Telecommunications Act which ties the hands of planning boards so that you cannot by Federal Law look at health impacts provided that they are within their FCC limits which this applicant is is not only that but they have imposed as recently as last year a shot clock declaratory ruling, that means you have a certain time period in which you have to act on

an application or it is presumed to be approved by default. So that what was happening is a lot of communities still were delaying applications rightly or wrongly or whatever and so the federal government again stepped in to say that you have a limited time period from the time that they make their first application to the time where you have to reach a decision on an application for a new tower such as this, it's 120 days from the receipt of the applicant and the declaration by the board that the application was complete. So you have that issue and that I think really constrains the board significantly. The other issue that you have heard about tonight and it's valid for every person that got up and spoke is what the visual impact will be on their own properties. On that, there's a whole separate body of case law that's clear that no matter the use that's being proposed on someone's property but to the point that you have emphasized as long as it's legal, as long as it's allowed by the zoning that the board when you're reviewing these applications you can't be focused on what the impact, visual impact would be on a neighbor's property, you have to be concerned what the impact will be on public resources. So that if the tower was going to have an impact on an important viewshed that's something that you can consider.

MR. ARGENIO: Which is what we did with the Windsor Motel site.

MR. CORDISCO: Correct, and you were proper and within your rights to do that. But it would be an improper basis for a decision, to base your decision on what the impacts would be on the surrounding neighbors because that cause you can always get, you could see where that would lead.

MR. ARGENIO: It's too subjective.

MR. CORDISCO: Right, and you could see where you have a residential neighborhood that abuts a commercial neighborhood where someone doesn't want say a storage facility because they don't like the look of it.

MR. ARGENIO: We say we don't like the way it's going to look so we refuse you and the applicant sues the town and we lose.

MR. CORDISCO: Based on the visual impacts to the neighbors. If there was an important natural resource

or historic resource or viewshed that came into play then that's a valid concern. So you're out there, your mandate is to act in the public safety, health and welfare and that's called, that falls under the rubric of welfare in the sense that you're protecting important public viewsheds.

MR. ARGENIO: Mark, do you have any thoughts to add to this discussion?

MR. EDSALL: No, I think you guys have all touched on the important issues very clearly so I'm not going to drag it on.

MR. ARGENIO: It's difficult for everybody. To my right, Harry or Mr. Ferguson or Mr. Brown, do you guys have anything you'd like to add, any additional thoughts you'd like to add? I don't think we're going to go over the wire tonight or not, I think we should think about this a little bit. I want to think about some of the things Mrs. Wright said, I have jotted down some notes. Do you have anything else you want to probe?

MR. BROWN: Not right now.

MR. ARGENIO: Danny, do you have any other thoughts?

MR. GALLAGHER: No.

MR. ARGENIO: We hit the RF thing, that's always a concern, we talked about the visual thing with the tree, lot of people don't like it, I think that it's better than a thing that you see behind Michael Bigg's shop which is entirely unsightly but that's a different discussion.

MR. VAN LEEUWEN: I've got nothing, you covered it all.

MR. ARGENIO: Special permit, what about county?

MR. CORDISCO: We received county response that said local determination.

MR. ARGENIO: Okay, Mr. Morando, I think that's, I don't think that we're going to do anything else tonight, I think we have some comments, I think we should consider them. Go ahead, Anthony.

MR. MORANDO: Many things were said tonight, I haven't



had the benefit of seeing the written submission delivered to the board tonight, if I can have a copy of those?

MR. ARGENIO: Yes.

MR. MORANDO: If I can have a few moments to discuss a couple of the issues raised.

MR. ARGENIO: You may have a few moments.

MR. MORANDO: Okay.

MR. VAN LEEUWEN: A few.

MR. MORANDO: I'll keep it as brief as I possibly can, just try to hit the highlights. As you articulated as well as Dominic articulated the Telecommunications Act one of the main purposes was to be a pro-competitive statute, in other words, merely saying well, there's other carriers in the area that you can utilize is exactly what it was aimed at preventing. So that's just one issue that I heard was raised tonight.

MR. ARGENIO: So what you're saying is by design, Dominic, if you disagree with anything he says, please interrupt, so by design, it's such that well, Verizon's got a great spot because they got it in the early '90s so the heck with AT&T and everybody go to Verizon because then Verizon would have a lock, prices would go up, public suffers.

MR. MORANDO: Yes, well said. With regards to I believe Yvan spoke about the coverage area and addressed the other site located in Cornwall that was referenced so I won't belabor that point. But the other issue that was raised was with regards to AT&T coverage view area and their website. I will defer to Yvan on this issue but I will say it's my understanding that that tool is utilized for approximation of coverage, it's not a well designed or engineered analysis that's necessary to develop a full network, that is to give a consumer an idea of possible voice coverage. As Yvan indicated, there is a lot of other aspects, again, Yvan, I can refer you to Yvan.

MR. JOSEPH: Sure, in regards to the map that's provided on our website, first of all, that's a sales map.

MR. ARGENIO: Just going to say is that a marketing tool where somebody would say should I go with Verizon or AT&T, let me go on the AT&T website, oh, they have all the coverage, let me use their network. Is that what it's for or something else?

MR. JOSEPH: The primary focus is to show the boundaries of AT&T's limits as far as where they're serving but again, it's a sales map, meaning that this is what the salespeople use to show where you have places you can use your phone. One of the big differences between that map and the work that I do is that the resolution and how finely tuned what they're using is in order because that map is so large they have what they call bin size, which is how the resolution is per average quarter mile versus maybe average hundred meters, what I use is a more detailed tool for AT&T which shows more higher resolution as far as exact spots where there might be small holes, the map itself that you see on the website again is a sales tool where they average general areas to show you where our boundaries are for service. But it doesn't show you the granular or the high resolution that I use.

MR. ARGENIO: Understood.

MR. JOSEPH: It's not that it's an inaccurate device, but it's--

MR. ARGENIO: It's a sales tool, more broad and general.

MR. MORANDO: Thank you. And to further discuss the coverage issue again the purpose here is to provide reliable, safe, adequate, reliable service as AT&T has that mandate. But another issue is something called E-911 service, which is an approximation or locator device, it's sent to a PSA, if somebody makes an emergency phone call, E-911 which is part of the AT&T FCC obligation to provide safe, adequate and reliable service, again, that creating a strong signal along county borders, think about Hudson River, Dutchess County, Orange County, it's important when you're along that--

MR. ARGENIO: What you're telling us having the tower gives yourself better 911 service.

MR. MORANDO: Stronger E-911 signal, it's important. The other issue that I believe you did address it in

part is the idea of the shared user co-location opportunities. I think the application demonstrates that we have looked at all possible co-location opportunities in the area, all possible shared use and eliminated all possible sites at this point and have provided the least intrusive site we can.

MR. VAN LEEUWEN: We've heard that before, okay, we've heard a lot of that before from your people, so let that one go.

MR. MORANDO: I believe our--

MR. VAN LEEUWEN: That went in this ear and out the other twice.

MR. ARGENIO: Let's not beat the horse. You guys have nothing else? Anthony, anything else?

MR. MORANDO: No, I believe we have addressed the viewshed issues.

MR. ARGENIO: You folks to my right, anything else?

MS. PANZER: I just wanted to address the concern on the record.

MR. ARGENIO: What's your name?

MS. PANZER: Denise Panzer from Tectonic. I just wanted to address the photo-locations, tax properties versus non-tax properties. When we took the photos from 33 locations, we were concentrating on the immediate area because that was our understanding during our last application that was the area of concern. So we concentrated on those areas within one mile, beyond one mile we definitely went to aesthetic resources, public resources, that's why you see more.

MR. ARGENIO: That's what we asked you to do.

MS. PANZER: Right, because in the immediate area we have more private properties and the funeral home and outside that we look at resources so I just wanted to address that.

MR. MORANDO: Just to add to that, of those photos and photosimulations that are produced by Denise they do take the worst case scenario locations.

MR. ARGENIO: There's no foliage on the trees.

MR. MORANDO: Leaf off conditions. They also drive up and down Nee Avenue, Fay Avenue as well as Blooming Grove Turnpike and look for the worst location for lack of a better phrase of these images. I've had a chance to review the file and they're in the record, we have those available to the public as well.

MR. CORDISCO: My only comment is the one technical issue that the board's engineer may want to look at and confirm is the statement that the Cornwall tower on Route 32 was included in the analysis.

MR. ARGENIO: Do you think they lied?

MR. CORDISCO: No, I don't think that anybody lied but it would be nice to have it in writing for the board as part of the record.

MR. ARGENIO: I agree with that. Can you have somebody take care of that, 1, 2, 3, 4, 5 smart people?

MR. CORDISCO: Just something to confirm that.

MR. ARGENIO: I agree.

MR. EDSALL: It will make sure that was considered.

MR. ARGENIO: That's it.

MR. MORANDO: We'll get that.

MR. ARGENIO: Thank you for coming in. Contact her, we'll see you again at some point in time and audience, thank you very much, that was very good commentary, very respectful. Did we close the public hearing? We did, yes, okay, let's move on.

OGONOWSKI MINOR SUBDIVISION (11-05)

MR. ARGENIO: Next is Ogonowski subdivision.  
Mr. Ogonowski, do you have your permission slips?

MR. OGONOWSKI: Yes, sir.

MR. ARGENIO: This application proposes resubdivision of lot four of the former subdivision into two single family lots. The plan was previously reviewed at the 27 April, 2011 planning board meetings. First question I have before the applicant even speaks is Mark, is there a quantitative issue with the amount of lots on what Henry thinks is a private road, it may or may not be?

MR. EDSALL: It's not a private road.

MR. ARGENIO: Go ahead.

MR. JOHNSON: Mr. Ogonowski is proposing it's a 4.83 acre lot, right now we're proposing one 2.61 and other one being 2.2 acre parcel.

MR. ARGENIO: That's it?

MR. JOHNSON: That's basically it.

MR. ARGENIO: This is simple. What about this whole thing with the neighbors, Mark, Dominic?

MR. CORDISCO: The issue that we raised--

MR. ARGENIO: I will be happy to hear you.

MR. CORDISCO: I don't know if that's true.

MR. ARGENIO: You're right.

MR. CORDISCO: Everybody knows in any event the issue that we raised is that when you're looking to subdivide a lot that has a restriction on it on a prior site plan, excuse me, subdivision plat, that said that the lot was not to be further subdivided, if you were to go and remove that restriction you have to get the consent of all the other lot owners in that subdivision where those lots were created at the same time because a buyer can come in or lot owner can come in and say I bought this lot with the understanding that no one was

ever going to build there.

MR. ARGENIO: Now you're whacking it up, I'm getting hosed.

MR. CORDISCO: That what we said they needed to do, they went off and did that, they got written consent from all the lot owners that would be impacted by this.

MR. VAN LEEUWEN: So then there's no problem.

MR. CORDISCO: No problem.

MR. EDSALL: I want to add something for the record, Dom and I discussed this, I want to have the record be complete. The application that included the no further subdivision restriction which was the application 91-31 Drake Magnard subdivision Hampton Court when that subdivision was considered by this board and approved four new lots were being created. There were already four lots on the road so the only lots that they had to demonstrate that they were in support of the further subdivision were the four created as Dom said as part of the subdivision on which the note was imposed.

MR. CORDISCO: Right, anyone that had been a lot owner there before that subdivision was created could never come in and say hey, I built there because I never thought that anybody was going to build across, they built before that subdivision.

MR. EDSALL: There were four pre-existing lots, just so the record is clear.

MR. ARGENIO: Any issue with the driveways? Have we heard from him at all from Anthony?

MR. EDSALL: No, and I don't suspect given the layout of the road that he will have any concerns, it's a straight run, there are no sight distance issues.

MR. ARGENIO: No culverts, drainage?

MR. OGONOWSKI: There aren't any.

MR. EDSALL: No, and it slopes down toward the back of their properties with sheetflow.

MR. ARGENIO: Okay, this horse is dying a slow death. I have the permission slips, I didn't expect that you

would get them but you did and that's great then.

MR. VAN LEEUWEN: Well, we don't as a board we don't have to abide by that.

MR. ARGENIO: By what?

MR. VAN LEEUWEN: By the other people that say no.

MR. CORDISCO: They didn't say no, they said yes.

MR. VAN LEEUWEN: Thank God.

MR. ARGENIO: So it's a non-issue. Your name?

MR. JOHNSON: Ernie Johnson, Fusco Engineering.

MR. ARGENIO: What do you guys have for this? You can't have approval tonight, we need to hear from county and you need to get your septic designs, the west end of the town has always been problematic. Mark, did you guys witness this?

MR. EDSALL: We did and at this point we're waiting for the design plan to be completed but we have witnessed the tests.

MR. ARGENIO: They have perc?

MR. EDSALL: They have perc, they are my understanding going to be using a shallow trench absorption system because of the conditions so we're waiting for the final design.

MR. ARGENIO: What else do we need to talk about?

MR. CORDISCO: It's on for public hearing.

MR. GALLAGHER: Wait for the public.

MR. EDSALL: Public hearing.

MR. ARGENIO: This is a public hearing, I'm sorry. On the 28th day of June, 2011, Nicole compared 12 addressed envelopes that went out, her source was a list from the assessor containing a notice of this public hearing this evening. At this point in time, I'd like to open the public hearing, if anybody has a comment, raise your hand, be recognized, you'll be afforded the opportunity to speak. I'll accept a

motion?

MR. GALLAGHER: So moved.

MR. VAN LEEUWEN: Second it.

MR. ARGENIO: Motion made and seconded by Danny that we close the public hearing.

MR. VAN LEEUWEN: He made it and I seconded it.

MR. ARGENIO: Insomuch as there's no show of hands on anybody wanting to speak.

MR. VAN LEEUWEN: Dan made the motion, I second it.

MR. ARGENIO: That's okay.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: What else? Sounds like everything is done, just need to hear from the other outside agencies.

MR. EDSALL: Anything from County Planning?

MR. ARGENIO: No.

MR. EDSALL: We still need the final sanitary design, you need a resubmital of the plan, you need to hear from the county and they can come back.

MR. ARGENIO: Please don't ask for a subject-to, I don't like doing that, we're the final coordinating body for all these subdivisions and it's good to keep it that way cause it maintains a level of consistency, that way nobody's treated any better or worse than anybody else but it certainly seems to me you should have a flavor of where we're at.

MR. VAN LEEUWEN: I have no problem with it.

MR. ARGENIO: Okay, guys, thank you for coming in.



REGULAR ITEMS:

SANDCASTLE HOMES SITE PLAN AMENDMENT (11-06)

MR. ARGENIO: Regular items, Sandcastle Homes. The application proposes change in use to the previously approved building plan to replace the bank pad with a two story office building. The plan was previously reviewed at the 11 May, 2011 planning board meeting. This is I think Cardaropoli which you are Mr. Cardaropoli, Jr.?

MR. CARDAROPOLI: Yes.

MR. ARGENIO: At the end of the Union Avenue extension down near River Road, that piece that was high and low, nobody, everybody was afraid of for 100 years. Danny, do you know where we're talking about?

MR. GALLAGHER: Yes.

MR. ARGENIO: Tell us what you've done, where you're at?

MR. CARDAROPOLI: Okay, basically, after the comments from the last meeting, we made a little area for a flag pole, we made a little rotunda with a seating area.

MR. ARGENIO: Henry, you weren't here but in your absence, I asked them to do that.

MR. VAN LEEUWEN: Did you? Thank you, buddy.

MR. ARGENIO: Go ahead.

MR. CARDAROPOLI: And we're going to put a little bigger flag pole on this one but we decided to put it right in the front of the building with a little rotunda, a paved rotunda and granite benches, be a nice little outdoor seating area.

MR. ARGENIO: Excellent.

MR. CARDAROPOLI: We took into account with Mark doing some more landscaping along Union.

MR. ARGENIO: We talked about that.

MR. CARDAROPOLI: We have some in the rear.

MR. ARGENIO: Does your plan that I'm looking at here reflect that additional landscaping?

MR. CARDAROPOLI: Yes.

MR. ARGENIO: I don't think it does. Okay, continue.

MR. CARDAROPOLI: So we did along Route 9W and on Union we put some more.

MR. ARGENIO: The plan does show the additional landscaping, I was looking at the wrong page. Go ahead, sir.

MR. CARDAROPOLI: And then the same thing with the landscaping along Union to protect the houses in the back, so we moved the dumpster enclosure a little bit further away from the building and gave handicapped parking spaces closer to the building and put the dumpster enclosure a little bit further away. And then for the storm water runoff everything that comes off of the roof is going to be a little bioretention garden where we're going to take the water to basically--

MR. ARGENIO: What does that mean, you store it in a cistern?

MR. CARDAROPOLI: Yeah, it, basically because these were designed for certain amount of flow of the ponds so we did increase the area of the building, the roof area since it's a larger building than the bank branch so we're going to do a nice little bioretention, basically it's going to be a garden that's going to have different shrubs and flowers and landscaping.

MR. BOUDREAU: It's an engineered media with the details provided 30 inches of kind of a sandy peat mix then it goes through a gravel layer so it's a way to manage the quality of the storm water.

MR. ARGENIO: Mark, you're okay with that?

MR. EDSALL: I certainly am.

MR. BROWN: Is that an enclosed dumpster?

MR. CARDAROPOLI: Yes, it's enclosed by an enclosure.

MR. VAN LEEUWEN: Same block the building is made out of?

MR. CARDAROPOLI: Yeah, we're going to make it to look the same.

MR. ARGENIO: Howard, page SD1 bottom right-hand detail. Do you have a tenant?

MR. CARDAROPOLI: No tenant. I find just like the other buildings I have to get like a shell up and at least get started.

MR. ARGENIO: Activity generates activity.

MR. CARDAROPOLI: Showing the ground now people can't visualize but I have gotten more calls lately that's why I'm moving forward.

MR. ARGENIO: We declared a negative dec on 5/11 of '11, we waived the public hearing on 5/11 of '11, we sent this to county and we have heard back from them, they say local determination. Mark has a total of three comments, all three of them seem to me to be fairly innocuous. Do any of the members have any other questions on this? We covered the aesthetics, we covered the landscaping, we covered the dumpster, I think that was Howard was focused on the dumpster. Danny, anything else on this one?

MR. GALLAGHER: Just a quick one, by the handicapped parking do we usually typically have five foot sidewalk?

MR. ARGENIO: Say it again?

MR. GALLAGHER: Handicapped parking overhang of the cars five foot sidewalk is adequate enough? In the past have we gone from four to five feet?

MR. ARGENIO: Or four to six feet. Question to you, Mark?

MR. GALLAGHER: At least for the one section of where the handicapped cars are.

MR. EDSALL: Yeah, what I have been seeing in some cases the handicapped spaces are putting in the stops.

MR. GALLAGHER: Maybe back it away from the sidewalk, if you don't want to extend the sidewalk because I notice with the two arrows that the ramps for

wheelchair access.

MR. BOUDREAU: Yes, wheel stops.

MR. GALLAGHER: Or wheel stops to keep them away.

MR. ARGENIO: You need to modify the plans to show wheel stops in the handicapped stalls, please, if you'd be so kind.

MR. VAN LEEUWEN: I can't argue, you did a good job for a change.

MR. BROWN: I'll make a motion.

MR. ARGENIO: Howard Brown has made a motion for final approval.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer final approval for the Sandcastle site plan amendment project 11-06 and that it's subject to Mark's comments and subject to that change that Danny pointed out will be necessary on the plans to show the handicapped bumpers or parking lot bumpers and install them, Mr. Cardaropoli. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you for coming in tonight, good luck to you, sir.

MASONS RIDGE II LOT LINE CHANGE (11-02)

MR. ARGENIO: Masons Ridge II lot line change. This is a proposed lot line change previously reviewed at the 26 January, 13 April, 11 May, 2011 planning board meetings. Miss Kalisky, please be brief on the lot line change because from where I'm sitting, it's more of a technical/legal issue than the site plan application then we'll look at the site plan and we'll act on both of them or we won't act on both of them. So briefly with the site plan.

MR. EDSALL: Lot line.

MS. KALISKY: With the lot line change we have gone through numerous iterations of this, we're actually combining, the development has acquired the lands now formally of U.S. National Bank Association and adding that to the lands now or formerly of Baker modifying the lot line for access to the Masonic or Masons Ridge, excuse me, site development up here. And the change was proposed to accommodate an additional building in Phase II of the Masons Ridge development on the Baker piece here. The easement is an overall easement granting access to which will be revised, the attorney's office is working on that and will provide to the planning board and the planning board's consultants for their review. The map has been revised to the satisfaction of addressing all the comments raised by the planning board and the planning board consultants and will result in increasing an existing 1.3 acre parcel into a 2.4 with a combination of the joining of the two lots.

MR. ARGENIO: Any questions?

MR. ARGENIO: Next, let's go to the next application Masons Ridge II.

MASONS RIDGE II WORK FORCE HOUSING SP (11-01)

MR. ARGENIO: Application proposes extension of the recently approved work force housing site plan project to include an additional 20 units on tax lot 20.22.1. The plan was previously reviewed at the 26 January, 13 April, 11 May, 2011 and the 8 June, 2011 planning board meeting. Jen, what kind of shape are they in up there with erosion, et cetera?

MS. GALLAGHER: We haven't been up there, I believe Mark's office has been up there more than we have.

MR. EDSALL: Things are proceeding properly, everything's fine.

MR. ARGENIO: Go ahead, ma'am.

MS. KALISKY: Okay, with the contingent on the approval of the lot line adjacent as I said we have gone through numerous comments on this plan. We have satisfied all comments from the planning board and the consultants at our last meeting. However, on June 8 was a public hearing, at that time, we had three residents, the three adjoiners down here comment on they were concerned with some visual buffer and security buffer. It was at the their request and the planning board's recommendation that we have added a six foot stockade white vinyl stockade fence run from this property corner which will eliminate the access to the existing gravel drive, brings it around and up a portion up here. We have also as I said that fence line is six foot high, we have added an additional nine evergreen trees placed on the residents', adjoining residents' side of that fence so they don't look out and have to see a stockade fence.

MR. ARGENIO: So you have trees on the residents' side and your side?

MS. KALISKY: Yes, that is correct, both of these changes are shown on the latest submission to the planning board.

MR. ARGENIO: I think it was Danny Gallagher who recommended or maybe Howard recommended to move the sidewalk on the other side of the parking lot up near the building which it seems as though you have done, I think you had that at the last meeting.

MS. KALISKY: The only changes from the last meeting is to address the comments at the public hearing and we actually were able to speak with two of the three residents.

MR. ARGENIO: How did that go?

MS. KALISKY: Miss Baez would have liked to have seen a taller fence, however, six foot is standard and would provide her the security that she was seeking as far as a visual barrier the trees go in at a six to eight foot height to begin with and they do grow tall and will grow out.

MR. ARGENIO: That's part of the record six to eight foot trees, you got that, Mr. Regan?

MR. REGAN: Got it.

MS. KALISKY: It's part of the landscaping table.

MR. ARGENIO: Make sure the landscaper doesn't gip you. Go ahead.

MS. KALISKY: So that would actually provide the better visual buffer that she was seeking.

MR. ARGENIO: I think the eight foot fence is too much.

MR. VAN LEEUWEN: Six foot is enough.

MR. ARGENIO: Six foot's a lot.

MS. KALISKY: We did have a public hearing with the town board as required for a special use permit. We had no one at that meeting and no comments were received so the public hearing was opened and closed and we did receive the special permit approval from the town board as required under the zoning.

MR. ARGENIO: I want to read just a bit here. From a zoning standpoint, the application proposes the former Masons Ridge site plan lot number 110 and this Masons Ridge II site plan to be considered a single development based on this approach, the zoning is indicated on the plan and complies with Section 300-31 of the work force housing application. Public hearing was held on 6/8/11, we got some very productive commentary from and seems as though the engineer has responded and acted appropriately. A negative dec was

declared by the planning board on 6/8 of 2011, local determination was received from Orange County Department of Planning on 4/13 of '11 and as Miss Kalisky just said, the special permit was granted by the town board on July 6. As such, you're moving at what I would consider the speed of sound. Let me keep reading a couple of Mark's comments. Proper linking of the two lots from a site plan approval standpoint should be finalized with the attorney. Dominic, that would be you. Plans should confirm by note that residents of Masons Ridge II have full use of the amenities of the original site plan. Is that your intent?

MR. REGAN: Absolutely.

MS. KALISKY: That's general note five that's been on the plans.

MR. ARGENIO: Bond estimate and fees. Danny, what do you got?

MR. GALLAGHER: Nothing.

MR. ARGENIO: Harry Ferguson, nothing else?

MR. FERGUSON: Nothing.

MR. ARGENIO: Howard?

MR. BROWN: I think they've done everything.

MR. VAN LEEUWEN: Seems so, it's the first time I've been here in a while.

MR. ARGENIO: We moved the dumpster enclosure, Danny, I think it was Danny or you, Howard.

MR. BROWN: Danny.

MR. ARGENIO: Danny made a comment on the sidewalk, made perfect sense, we relocated this, wanted the landscaping which you have, it seems that they have done, Mark or Dominic, am I missing something?

MR. EDSALL: They are in very good shape, my comments really are there so Dom has a chance to review the notes, make sure he's okay with the way they're worded as part of his review of the easement for the shared commercial accessway but as far as a response, they



have responded to all our previous comments.

MR. ARGENIO: Meghan, do you have any comments on this application?

MR. EDSALL: You've seen it enough, right Meghan?

MR. ARGENIO: I'll accept a motion for final approval.

MR. VAN LEEUWEN: Just a second please. What's going to be done with this unnamed drive, the old driveway to get into the property?

MS. KALISKY: We're turning it green and as we said, the stockade fence you'll see extends right to that property corner here across the lands of Mr. Butler that way there's no access once this is in this disappears and gets returned back to grass.

MR. VAN LEEUWEN: You're going to maintain it?

MS. KALISKY: Well, yes, it's still part of the property.

MR. GALLAGHER: Is it accessible with it fenced in?

MR. VAN LEEUWEN: Why don't you see if the two neighbors will buy it?

MS. KALISKY: Then we have to come back to the planning board, sir.

MR. VAN LEEUWEN: All right, never mind.

MR. CORDISCO: I would just suggest that the approval be conditioned on the comments and conditions laid out by Mark.

MR. ARGENIO: No kidding. Got it.

MR. VAN LEEUWEN: So moved.

MR. ARGENIO: I have a motion for final approval.

MR. BROWN: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE

MR. GALLAGHER            AYE  
MR. VAN LEEUWEN        AYE  
MR. ARGENIO            AYE

MR. ARGENIO:    Subject to Mark's comments.

MR. EDSALL:    Just be clear that was the approval for  
the site plan application 11-01.

MR. ARGENIO:    For the site plan and for the  
subdivision.

MR. EDSALL:    I would suggest two separate motions.

MR. ARGENIO:    I'll accept a motion that we offer final  
for the lot line change.

MR. VAN LEEUWEN:    So moved.

MR. BROWN:    Second it.

ROLL CALL

MR. FERGUSON            AYE  
MR. BROWN               AYE  
MR. GALLAGHER           AYE  
MR. VAN LEEUWEN        AYE  
MR. ARGENIO            AYE

MR. ARGENIO:    Thank you, Miss Kalisky, thank you  
Mr. Regan.

MR. REGAN:    Thank you to the board and the  
professionals.

MR. ARGENIO:    Please keep on top of the erosion  
control.    Jennifer doesn't need to get phone calls.    I  
don't need my truck to get dusty in the front of the  
parking lot.

MR. REGAN:    We made it clear where everybody stood on  
the matter.

MR. ARGENIO:    Thank you.    Motion to adjourn?

MR. VAN LEEUWEN:    So moved.

MR. BROWN:    Second it.

July 13, 2011

43

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer